

**Federal Communications Commission**

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Andrew Dunton	)	File No. EB-FIELDNER-13-00011258
Vessel Merganser	)	
Neptune, New Jersey	)	NOV No. V201332400053
	)	

**NOTICE OF VIOLATION**

**Released: September 30, 2013**

By the District Director, Philadelphia Office, Northeast Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission’s rules (Rules),<sup>1</sup> to Andrew Dunton, owner of an Emergency Position Indicating Radio Beacon (EPIRB) used on the vessel “Merganser” in Neptune, New Jersey. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation noted herein.<sup>2</sup>

2. On September 14, 2013, the Enforcement Bureau’s Philadelphia Office received a complaint from the United States Coast Guard concerning interference to the safety and distress frequencies of 406 MHz and 121.5 MHz. Using radio direction finding techniques, agents from the Philadelphia Office traced the source of interference on 121.5 MHz to an EPIRB located on the shoreline of the Shark River in Neptune, New Jersey. The agents inspected the EPIRB and observed the following violation:

47 C.F.R. § 80.89(a): “Stations must not engage in superfluous radiocommunication.” Transmissions by EPIRBs are intended to be actuated manually or automatically as part of a ship or a survival craft station as a locating aid for survival purposes. At the time of the inspection, the EPIRB had been activated in the absence of any emergency situation. The EPIRB was registered to the vessel Merganser and was found on the shoreline of the Shark River approximately 350 yards from where the vessel was docked.

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<sup>1</sup> 47 C.F.R. § 1.89.

<sup>2</sup> 47 C.F.R. § 1.89(a).

## Federal Communications Commission

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3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,<sup>3</sup> and Section 1.89 of the Rules, we seek additional information concerning the violation and any remedial actions taken. Therefore, Andrew Dunton must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific actions taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective actions. The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.<sup>4</sup>

4. In accordance with Section 1.16 of the Rules, we direct Andrew Dunton to support his response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by Andrew Dunton, verifying the truth and accuracy of the information therein,<sup>5</sup> and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>6</sup>

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission  
Philadelphia Office  
One Oxford Valley Building, Suite 404  
2300 East Lincoln Highway  
Langhorne, Pennsylvania 19047

6. This Notice shall be sent to Andrew Dunton at his address of record.

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<sup>3</sup> 47 U.S.C. § 308(b).

<sup>4</sup> 47 C.F.R. § 1.89(c).

<sup>5</sup> Section 1.16 of the Commission's rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person . . . . Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.<sup>7</sup>" 47 C.F.R. § 1.16.

<sup>6</sup> 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

**Federal Communications Commission**

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7. The Privacy Act of 1974<sup>7</sup> requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

David C. Dombrowski  
District Director  
Philadelphia Office  
Northeast Region  
Enforcement Bureau

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<sup>7</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).